

APPENDIX D
AGREEMENTS, POLICIES, AND LEGISLATION

Vehicle Removal Interagency Agreement
Maryland
1990

April 23, 1990

SUBJECT: PROMPTLY REOPENING ROADWAY TO TRAFFIC
Road/Lane Blocked/Closed by Accident or Loads Falling from Trucks.

PURPOSE Whenever a roadway or travel lane is closed or partially blocked by an accident and traffic delays or safety problems may occur, the RME or his representative in cooperation with the police officer in charge should reopen the roadway as soon as possible ON AN URGENT/BASIS. This policy recognizes that public safety is the highest priority and must be secured, especially if injuries or hazardous materials are invoked. It is understood that damage to vehicles or cargo may occur as a result of clearing the roadway on an urgent basis while reasonable attempts to avoid such damage should be taken, the highest priority is public safety.

PROCEDURE: Type of Occurrence

GENERAL

The RME or his representative is to assign the necessary equipment and manpower to reopen the road or lane as soon as possible.

If the incident involves any truck (other than a pick-up) or removal of debris (safe spilled cargo), a rubber-tired Front End Loader shall be dispatched to the ~~scene~~ as soon as possible in the event it could be needed to assist a tow truck in righting/relocating the vehicle(s) involved, or assisting in debris removal/relocation.

If commercial hdp does not arrive within a reasonable period of time, SEA form shall begin the removal of vehicle(s)/spilled safe cargo.

If the commercial hdp is unable to correct the situation the SHA shall assist by using the Front End Loader as needed.

If materials being transported are spilled, the SHA will make every effort to relocate the materials in the shortest possible time, using whatever equipment is necessary. All such materials shall be relocated as short a distance as possible, but not be placed so as to present a traffic hazard.


The RME or his representative shall prepare a list of the personnel and equipment used and the work hours involved so that the owner of the vehicle and/or cargo can be billed for the cleanup. The SHA's towing response for: shall also be completed for every incident involving the SHA.

Appropriate warning devices (signs, barricades, arrowboards, etc) are to be placed on the scene should either the damaged vehicle(s) or cargo remain adjacent to a shoulder.

HAZARDOUS/FLAMMABLE/EXPLODING MATERIALS

No attempt is to be made by SHA personnel/equipment to remove any hazardous or flammable explosive material or any reason. If the SHA is first on the scene and the cargo content is not readily identifiable, the RME or his representative will contact the proper authorities to ascertain if special measures should be taken.

As soon as the public safety has been secured, then reopening the roadway is to proceed as described under GENERAL in this memorandum.


E. William Ector, Jr.

Deputy Chief Engineer - Maintenance

INTERAGENCY AGREEMENT
MD/SHA-MSP
REMOVAL OF VEHICLES FROM ROADWAY

This agreement made this 26th day of October 1990, by and between the Maryland State Highway Administration (SHA) and the Maryland State Police (MSP) is to provide guidance for State Police, and State Highway personnel in removing vehicles from roadways in certain situations to maintain a safe and orderly flow of traffic.

WITNESSETH: Whereas, the SHA is proposing to remove certain vehicles from the roadway on an urgent basis following collisions or where vehicles are abandoned and are causing a hazardous situation to exist.

I. General:

Whenever a road or lane is closed or partially blocked by an accident and traffic delays or safety problems may occur, the Resident Maintenance Engineer or his Representative, in cooperation with the police officer in charge, should reopen the roadway as soon as possible ON AN URGENT BASIS. This recognizes that public safety is the highest priority and must be secured, especially if injuries or hazardous materials are involved. It is understood that damage to vehicles or cargo may occur as a result of clearing the road on an urgent basis. While reasonable attempts to avoid such damage should be made, the highest priority is public safety.

II. Procedure/Requirements - SHA

A. General

The Resident Maintenance Engineer or his representative is to assign the necessary equipment and manpower to reopen the road or lane as soon as possible.

If materials being transported are involved, the SHA will make every effort to relocate the materials in the shortest possible time, using whatever equipment is necessary. All such materials will be relocated as short a distance as possible, but not be placed so as to present a traffic hazard.

The Resident Maintenance Engineer or his representative is to prepare a list of the personnel and equipment used and the work hours involved so that the owner of the vehicle and/or cargo can be billed for the work. Appropriate warning devices (barricades, signs, arrowboards, etc.) are to be placed on the scene should either the damaged vehicle(s) or cargo remain adjacent to a lane or on the shoulder.

B. Hazardous/Flammable/Exploding Materials

No attempt is to be made by State Highway Administration personnel/equipment to move any hazardous or flammable or explosive material for any reason. If SHA is first on the scene and cargo content is not readily identifiable, the Resident Maintenance Engineer or his representative will contact the proper authorities to ascertain if special measures should be taken.

As soon as the public safety has been secured then reopening of the roadway is to proceed as described under "GENERAL" in this agreement.

III. MSP Duties and Responsibilities

Members of the Maryland State Police who are the on-scene motor vehicle collision investigators will work in cooperation with other Emergency Service Personnel and members of the MD State Highway Administration who are at the scene.

Members of the State Police will conduct their required investigation in as expedient a manner as possible, considering the severity of the collision and the quality of their investigation. Lengthy investigations will require investigators to work diligently in an attempt to minimize traffic delays. This may mean that certain "non-critical" portions of an investigation be conducted at a later time when traffic congestion is non-existent (i.e., non-peak periods).

It should be understood that as fire and rescue service personnel complete their required tasks of extrication, administration of medical assistance and removal of the injured, the Maryland State Police Officer in Charge may choose to release them unless a HAZMAT situation exists.


This will also hold true for allied police personnel, additional troopers and members of the State Highway Administration as each complete their required functions, returning the roadway to normal as soon as possible.


Members of the Maryland State Police shall not Unnessarily cause a delay in the reopening of a roadway in allowing a company to dispatch (an) additional truck(s) for immediate off-loading where this action will result in additional back ups or hazardous circumstances during peak traffic periods.


IV. Liability Issues


Maryland State Highway Administration's policy for the immediate removal of certain vehicles from roadway's on an URGENT BASIS utilizing available resources, recognizes that public safety is of the highest priority. Furthermore SHA realizes that damage to vehicles or cargo contained therein may occur as the result of their clearrrng the roadway, and SHA assumes liability under these circumstances for said damage, should that become an issue. SHA's liability under these circumstances would be no greater than they night expect from negligence etc. on the part of snow equipment operations. As outlined in the "Limits of Liability" portion of the MD Tort Claims Act, SHA is only responsible for the first \$1,000.00 in damages and the Maryland State Treasurers office would cover any additional damages under the State's Self-Insurance Program. SHA would not automatically be liable for damages resulting from clearing the roadway unless there was clear,evidence on the Administration's par-c, that neqfigence was used in said operation.

In Witness Whereof, each party hereto has caused this agreement to be executed in its name and on its behalf by its duly authorized officer or agent as of this day and year first above written

 07/19/90
Bishop L. Robinson
Secretary
Public Safety and
Correctional Services


Richard H. Trainor
Secretary
Maryland Department of
Transportation

 7:14/90
Col. Elmer Tippet
Superintendent
Maryland State Police


Hal/Kassoff, Administrator
MD State Highway Administration

**“Automatic Tow” Policy
Minnesota State Patrol
1994**

March 17, 1994

STATE PATROL AUTOMATIC TOW POLICY**Overview:**

In an effort to minimize tow truck response time to accidents, the Minnesota State Patrol has instituted an "automatic tow" policy. This policy allows dispatchers to call for a tow truck immediately upon notification of an accident instead of waiting for a trooper to arrive at the scene to assess the situation, and then call for a tow if necessary. In pilot tests, this policy was found to reduce the length of an incident between 8 and 21 minutes.

Policy Statement:

This policy states that, within the time and geographic constraints listed below, a dispatcher will call the appropriate towing company immediately upon receipt of initial notification of an accident unless he/she has reason to believe that a tow definitely will not be needed. In calling the tow company, the dispatcher will identify the call as an automatic tow to ensure that the tow company knows that a trooper may not have arrived at the scene yet. This policy will not be in effect when, in the judgement of the dispatcher, he/she is too busy to implement it.

Geographic Limits:

This policy will be applied to any accident on an interstate or trunk highway to which State Patrol normally responds within the confines of the I-494/I-694 loop, with the addition of the following roadway stretches: I-35W and I-35E south of I-494 to their junction; I-35W north of I-694 to TH 10; I-35E north of I-694 to TH 96; and I-94 north of I-494 to Weaver Lake Rd. TH 120 will not be included in this policy because, during the pilot project, it was found that local police frequently respond to incidents on this roadway and subsequently call their own tow, not knowing that the State Patrol has already called a tow under the automatic tow policy. Normal State Patrol procedure will be used in determining the appropriate tow company to call.

Schedule:

This policy is to be in effect from 6 am to 9 pm, Monday through Friday. However, at the discretion of the dispatcher, it may be utilized on the weekend or at night if deemed appropriate.

Tow Company Responsibilities:

It will be the responsibility of the tow companies to dispatch a tow truck to the scene immediately upon receipt of an automatic tow call from the State Patrol. If the tow arrives before a trooper is on the scene, the driver must wait for the officer to arrive before disturbing the accident scene.

Trooper Responsibility:

Upon arrival on the accident scene, it will be the responsibility of the trooper to cancel the automatic tow if he/she deems it unnecessary. Highway Helpers responding to the incident should not cancel the tow.

Vehicle Removal Legislation

Colorado - 1993

Texas - 1991

DRAFT

BY Highway Legislation Review Committee

A BILL FOR AN ACT

101 CONCERNING THE REMOVAL OF HIGHWAY OBSTRUCTIONS RESULTING FROM
102 VEHICULAR INCIDENTS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Defines a vehicular incident as any vehicle accident, breakdown, or spill that results in any vehicle, cargo, or personal property blocking or impeding the highway or right-of-way. Authorizes the Colorado department of transportation and the state patrol to remove any vehicle, cargo, or personal property involved in a vehicular incident from the highway or right-of-way, without the consent of the owner thereof, or carrier, if any. Provides immunity to the department and state patrol and the officers and employees thereof from a claim for civil damages as a result of: the removal and disposal of any such vehicle, cargo, or personal property or from the failure to exercise any authority for such removal and disposal. Makes certain persons responsible for reimbursing the department and the state patrol for costs of the removal and disposition of any such vehicle, cargo, or personal property.

Provides for the applicability of the emergency response to hazardous substance incidents law under certain circumstances.

1 Be it enacted by the General Assembly of the State of Colorado:
2 SECTION 1. Parr. 1 of article 21 of title 13, Colorado
3 Revised Statutes, 1987 Repl. Vol., as amended, is amended BY THE
4 ADDITION OF A NEW SECTION to read:
5 13-21-108.7. Persons rendering assistance relating to
6 vehicular incident management legislative declaration exemption

1 from civil liability. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND
2 DECLARES THAT IT IS IMPORTANT TO THE PUBLIC SAFETY OF PERSONS
3 UTILIZING THE STATE HIGHWAY SYSTEM THAT CERTAIN INCIDENTS INVOLVING
4 VEHICLE CCIDENTS, CARGO SPILLS, AND BREAKDOWNS OCCURRING ON
5 HIGHWAYS AND RIGHTS-OF-WAY BE MANAGED IN AS EFFICIENT AND
6 EXPEDITIOUS A MANNER AS IS POSSIBLE IN ORDER TO SIGNIFICANTLY
7 REDUCE THE OCCURRENCE OF DELAYS ANO SECONDARY ACCIDENTS RESULTING
8 EITHER DIRECTLY FROM OR ATTRIBUTABLE TO THE SLOWING OR STOPPING OF
9 TRAFFIC FROM SUCH INCIDENTS. THE GENERAL ASSEMBLY FINDS THAT
10 KNOWLEDGEABLE INDIVIDUALS AND ORGANIZATIONS SHOULD BE ENCOURAGED
11 TO LEND EXPERT ASSISTANCEIN THE REMOVAL FROM THE STATE HIGHWAYS
12 ANO RIGHTS-OF-WAY OF ALL VEHICLES, CARGO, AND PERSONAL PROPERTY
13 INVOLVED IN SUCH INCIDENTS WHICH AFFECT OR DELAY OTHER PERSONS
14 TRAVELING THEREON. THE PURPOSE OF THIS SECTION IS TO ENCOURAGE
15 INDIVIDUALS AND ORGANIZATIONS TO LEND ASSISTANCE TO THE EFFICIENT
16 AND EXPEDITIOUS REMOVAL OF SUCH INCIDENTS FROM THE STATE HIGHWAY
17 SYSTEM BY PROVIDING THEM WITH LIMITED IMMUNITY FROM CIVIL
18 LIABILITY.

19 (2) AS USED IN THIS SECTION:

20 (a) "HIGHWAY" MEANS THE ENTIRE WIDTH BETWEEN THE BOUNDARY
21 LINES OF EVERY WAY PUBLICLY MAINTAINED WHEN ANY PART THEREOF IS
22 OPEN TO THE USE OF THE PUBLIC FOR PURPOSES OF VEHICULAR TRAVEL OR
23 THE ENTIRE WIDTH OF EVERY WAY DECLARE' 3 TO SE A PUBLIC HIGHWAY BY
24 ANY LAW OF THIS STATE.

25 (b) "VEHICULAR INCIDENT" MEANS ANY VEHICLE ACCIDENT
26 BREAKDOWN, OR SPILL THAT RESULTS IN ANY VEHICLE. CARGO OR PERSONAL

1 PROPERTY BLOCKING OR IMPEDING THE HIGHWAY OR RIGHT-OF-WAY.

2 (3) THE COLORADO DEPARTMENT OF TRANSPORTATION AND THE
3 COLORADO STATE PATROL MAY, WITHOUT THE CONSENT OF THE OWNER OF ANY
4 VEHICLE, CARGO, OR OTHER PERSONAL PROPERTY INVOLVED IN A VEHICULAR
5 INCIDENT, OR THE CARRIER, IF ANY, REMOVE SUCH VEHICLE, CARGO, OR
6 PERSONAL PROPERTY FROM THE HIGHWAY OR RIGHT-OF-WAY UNDER
7 CIRCUMSTANCES IN WHICH, AS DETERMINE9 BY THE DEPARTMENT OR THE
8 STATE PATRCL, SUCH VEHICLE, CARGO, OR PERSONAL PROPERTY IS BLOCKING
9 THE HIGHWAY OR RIGHT-OF-WAY, OR MAY OTHERWISE BE ENDANGERING PUBLIC
10 SAFETY.

11 (4) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY,
12 THE COLORADO DEPARTMENT OF TRANSPORTATION AND ITS OFFICERS AND
13 EMPLOYEES AND THE COLORADO STATE PATROL AND ITS OFFICERS AND
14 EMPLOYEES SHALL NOT BE LIABLE FOR ANY CIVIL DAMAGES FOR ACTS OR
15 OMISSIONS MADE IN GOOD FAITH AS A RESULT OF THE REMOVAL OR DISPOSAL
16 OF ANY VEHICLE, CARGO, OR PERSONAL PROPERTY INVOLVED IN A VEHICULAR
17 INCIDENT FROM A HIGHWAY OR RIGHT-OF-WAY, UNLESS SUCH REMOVAL OR
18 DISPOSAL WAS CARRIED OUT IN A WILLFUL AND WANTON MANNER.

19 (5) THE COLORADO DEPARTMENT OF TRANSPORTATION AND ITS
20 OFFICERS AND EMPLOYEES AND THE COLORADO STATE PATROL AND ITS
21 OFFICERS AND EMPLOYEES SHALL NOT BE LIABLE FOR ANY CIVIL DAMAGES
22 AS A RESULT OF THE FAILURE TO EXERCISE ANY AUTHORITY GRANTED UNDER
23 THIS SECTION.

24 (6) THE OWNER OF ANY VEHICLE, CARGO, OR PERSONAL PROPERTY
25 SUBJECT TO THIS SECTION> AND THE CARRIER, IF ANY, SHALL BE
26 RESPONSIBLE FOR REIMBURSING THE DEPARTMENT AND THE STATE PATROL FOR

1 THE COSTS OF THE REMOVAL AND SUBSEQUENT DISPOSITION OF SUCH
2 VEHICLE, CARGO, OR PERSONAL PROPERTY.

3 (7) ANY VEHICLE, CARGO, OR PERSONAL PROPERTY INVOLVED IN A
4 VEHICULAR INCIDENT WHICH IS BELIEVED OR KNOWN TO CONTAIN HAZARDOUS
5 SUBSTANCES SHALL BE SUBJECT TO THE PROVISIONS GOVERNING EMERGENCY
6 RESPONSE TO HAZARDOUS SUBSTANCE INCIDENTS UNDER PART 1 OF ARTICLE
7 22 OF TITLE 29, C. R. S.

8 (8) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO ABROGATE
9 OR LIMIT THE SOVEREIGN IMMUNITY GRANTED TO PUBLIC ENTITIES PURSUANT
10 TO ARTICLE 10 OF TITLE 24, C. R. S., THE "COLORADO GOVERNMENTAL
11 IMMUNITY ACT".

12 SECTION 2. 24-10-106 (1) (d) (I), Colorado Revised Statutes,
13 1988 Repl. Vol., as amended, is amended to read:

14 24-10-106. Immunity and partial waiver. (1) A Public entity
15 shall be immune from liability in all claims for injury which lie
16 in tort or could lie in tort regardless of whether that may be the
17 type of action or the form of relief chosen by the claimant except
18 as provided otherwise in this section. Sovereign immunity is
19 waived by a public entity in an action for injuries resulting from

20 (d) (I) A dangerous condition of a public highway, road, or
21 street which Physically interferes with the movement of traffic on
22 the paved portion, if paved, or on the portion customarily used for
23 travel by motor vehicles, if unpaved, of any public highway, road,
24 street, or sidewalk within the corporate limits of any
25 municipality, or of any highway which is a part of the federal
26 interstate highway system or the federal primary highway system.

1 or of any highway which is a part of the federal secondary highway
2 system, or of any highway which is a part of the state highway
3 system on that portion of such highway, road, street, or sidewalk
4 which was designed and intended for public travel or parking
5 thereon; EXCEPT THAT A DANGEROUS CONDITION DOES NOT INCLUDE THE
6 ACTION OR INACTION OF PUBLIC EMPLOYEES ENGAGING IN THE REMOVAL OF
7 VEHICULAR INCIDENTS PURSUANT TO THE PROVISIONS OF SECTION
8 13-21-108.7, C.R.S. As used in this section, the phrase
9 "physically interferes with the movement of traffic" shall not
10 include traffic signs, signals, or markings, or the lack thereof.
11 Nothing in this subparagraph (I) shall preclude a particular
12 dangerous accumulation of snow, ice, sand, or gravel from being
13 found to constitute a dangerous condition in the surface of a
14 public roadway when the entity fails to use existing means
15 available to it for removal or mitigation of such accumulation and
16 when the public entity had actual notice through the proper public
17 official responsible for the roadway and had a reasonable time to
18 act.

19 SECTION 3. Safety clause. The general assembly hereby
20 finds, determines, and declares that this act is necessary for the
21 immediate preservation of the public peace, health, and safety.

*Amended to include clause that it be
automatically repealed in 3 yrs.*



The State of Texas

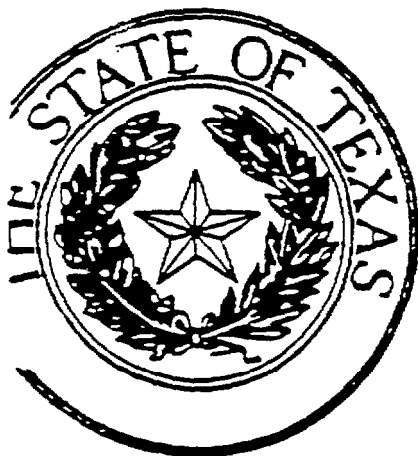
SECRETARY OF STATE

I, JOHN HANNAH, JR., Secretary of State of the State of Texas, DO HEREBY CERTIFY that the attached is a TRUE AND CORRECT copy of Senate Bill 312, passed by the 72nd Legislature, Regular Session, 1991, as signed by the Governor on May 22, 1991, and filed in this office on May 22, 1991.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused to be impressed hereon the Seal of State at my office in the City of Austin, this

27th day of May, A.D. 1991

John Hannah Jr.
Secretary of State



AN ACT

relating to the removal of obstructions from roadways and road rights-of-way.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 1, Title 116, Revised Statutes, is amended by adding Article 6673g to read as follows:

Art.6673g. REMOVAL OF OBSTRUCTIONS. (a) The State DEPARTMENT of HIGHWAYS and Public Transportation may, without the consent of the owner or carrier of spilled cargo or other personal property on the right-of-way or any portion of roadway of the state highway system,remove the cargo or property from the right-of-way or portion of roadway of the state highway system in circumstances in which, as determined by the department, the cargo or property is blocking the roadway or may otherwise be endangering public Safety

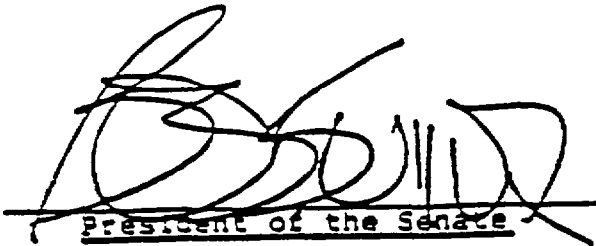
(b) The department may, pursuant to Section (a) of this article, remove cargo or personal property that the department has reason to believe is a hazardous material, as defined by the Hazardous Materials Transportation Act (49 U.S.C. Sec. 1801 et seq.) or a hazardous substance, as defined by the Texas Hazardous Substances Spill Prevention and Control Act (Subchapter G, Chapter 26, Water Code): provided that in doing so, the department must comply with applicable provisions of Section 411.018, Government Code, and the Texas Hazardous Substances Spill Prevention and Control Act.

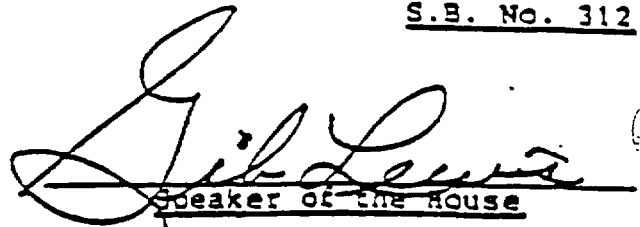
1 (c) The department and its officers and employees are not
2 liable for any damage claims of damages to removed cargo or
3 personal property that resulted from removal or disposal by the
4 department unless the removal or disposal was carried out
5 recklessly or in a grossly negligent manner.

6 (d) The department and its officers and employees are not
7 liable for any damages or claims of the damage may result from
8 the failure to exercise any authority granted under this article.


9 (e) The owner and, if any, the carrier of cargo or personal
10 property removed under the authority of this article shall
11 reimburse the department for the casts of the removal and
12 subsequent disposition.

13 SECTION 2. The importance of this legislation and the
14 crowded condition of the calendars in both houses create an
15 emergency and an imperative public necessity that the
16 constitutional rule requiring bills to be read on three several
17 days in each house be suspended, and this rule is hereby suspended,
18 and that this Act take effect and be in force from and after its
19 passage, and it is so enacted.

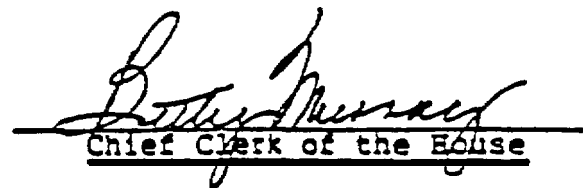

President of the Senate


Speaker of the House

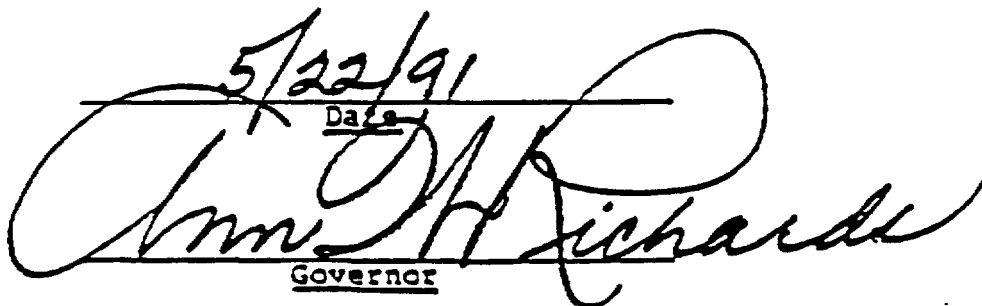
I hereby certify that S.B. No. 312 passed the Senate on
April 26, 1991, by the following vote: Yeas 31, Nays 0. _____


Secretary of the Senate

I hereby certify that S.B. No. 312 passed the House on
May 14, 1991, by the following vote: Yeas 143, Nays 1, one present
not voting. _____


Chief Clerk of the House

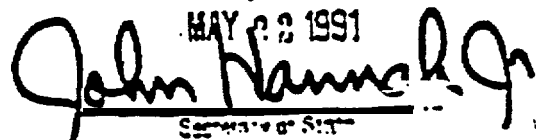
Approved:

5/22/91
Date

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE

7:01 p.m. OFFICE

MAY 22 1991


John Hannah
Secretary of State